

HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES - Draft
January 20, 2022

Members Present

Bill O'Brien, Chairman
Anne Bialobrzeski
Erica De Vries
Tom McGuirk
Bryan Provencal

Chairman O'Brien called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was said.

Chairman O'Brien introduced the Board.

PETITION SESSION

55-21...The continued petition of Evan G. and Karen J. Carrara for property located at 18 Sapphire Avenue seeking relief from Article(s) 4.5.1 (front setback), 4.5.2 (side setback), 4.5.3 (rear setback) to raise the existing structure in order to install a new garage at-grade. The existing building footprint shall remain the same in the proposed condition. This property is located on Map 223, Lot 83 and in the RB Zone.

Evan Carrara, Applicant, and Stephen Mayer, Allen & Mayer Associates, came forward. Mr. Mayer said the Applicant wishes to raise the existing house and install a garage underneath. This project will not encroach further into the existing setbacks. A pervious driveway will be installed as well. They have made modifications to the plan as requested by the Board. Building height has been added to the plan. It is 33.99 feet. The driveway location has been added and the existing shed and deck are removed. The staircase is added. Mr. Mayer then went through the five criteria and said he felt they had been met.

Questions from the Board

Ms. Bialobrzeski asked if the retaining wall has been built. Mr. Mayer said no. The wall is a replacement for what is there now. Ms. Bialobrzesky asked about flood vents. Mr. Mayer said the flood vents will be in the siding

Ms. Bialobrzkeski said she had contacted Jennifer Gilbert about flood elevations. Ms. Gilbert said the stillwater elevation level for Newcastle to Seabrook is 8.36. But for insurance and construction the number is 9.

Comments from the Audience

There were no comments from the Audience.

Back to the Board

Chairman O'Brien asked about the neighbor who was at the last meeting. Mr. Carrara said nothing will be put on her property.

Moved by Mr. Provencal, seconded by Ms. De Vries, to grant Petition 55-21.

Chairman O'Brien asked the Board if they felt the five criteria had been met. All members agreed that they had.

Vote: 5 yes, 0 no. Motion passed unanimously.

61-21...The continued petition of Tricia Wheeler for property located at 2 Downer Drive seeking relief from Article(s) 4.2, Footnote 22 for frontage relief to subdivide and create a new lot. This property is located on Map 96, Lot 2/D and in the RA Zone.

Tricia Wheeler, Applicant, came forward. She said they are on a corner lot and are looking into making this their retirement home. They want to subdivide the property to create two lots. Ms. Wheeler went through the five criteria and said she felt they had been met.

Questions from the Board

Ms. Bialobrzkeski asked if there was an existing easement now. Ms. Wheeler said not yet. Ms. Bialobrzkeski then asked if the Applicant has obtained a permit to tie into the sewer. Ms. Wheeler said they had not yet obtained this.

Comments from the Audience

Chuck Rage said he is a direct abutter. He said he feels this will be an asset to the neighborhood.

Back to the Board

Ms. Bialobrzkeski said she was uncomfortable. If they were tied to the sewer it would be different. She said she also feels this would alter the look of the neighborhood.

Mr. Provencal said he would like a stipulation that both houses must be on the Town sewer.

Chairman O'Brien said he had no problem with this, but would want the sewer connected before anything else is done.

Moved by Mr. Provencal, seconded by Ms. De Vries, to grant Petition 61-21 with the stipulation that both lots must be on Town sewer before anything else is done.

Chairman O'Brien asked the Board if they felt the five criteria had been met. All members said that they had with the exception of Ms. Bialobrzkeski.

Vote: 4 yes, 1 no (Bialobrzkeski). Motion passed.

01-22...The petition of Katherine Sutton for property located at 10 Trafford Road seeking relief from Article(s) 4.5.2 for a 12' x 16' gambrel style shed to be placed on level crushed stone. Build and installation by Reeds Ferry Sheds. This property is located on Map 193, Lot 58 and in the RA Zone.

Chairman O'Brien said he has no problem with this petition. They are asking for a variance, but the work has already been done.. This could be treated as an Equitable Waiver, but paperwork has already been done for a variance.

Katherine Sutton and Mr. Matthew _____ came forward. Mr. _____ said they had received a building permit in July. He then went through the five criteria and said he felt they had been met.

Questions from the Board

There was discussion regarding various types of misinformation.

Comments from the Audience

Henry Boyd, Millenium Engineering, said in the Applicant's defense he has had several people call him and say they do not have to have a survey.

Back to the Board

Ms. De Vries said she would feel differently if the neighbors were objecting. Mr. Provencal said there is no harm being done to anyone. He is okay with this.

Moved by Mr. McGuirk, seconded by Ms. De Vries, to grant Petition 01-22.

Chairman O'Brien asked the Board if they felt the five criteria had been met. All members said that they had with the exception of Ms. Bialobrzkeski.

Vote: 4 yes, 1 no (Bialobrzkeski). Motion passed.

02-22...The petition of Chris & Elaine Clarke for property located at 14 Kings Highway seeking relief from Article(s) I, 1.3 expansion; Article IV,4.5.1 front yard setback; Article IV,4.5.2 side yard setback for renovation and expansion of existing single-family home. This property is located on Map 223, Lot 160 and in the RB Zone.

Henry Boyd, Millenium Engineering, gave an overview of the project. The threshold for sealed surface will be met. This is fully flood compliant. Mr. Boyd said the existing house does not have a proper overhanging roof. This will cause the expansion, and is the roof only and house will stay the same.

Attorney Phoenix went through the five criteria and said he felt they had been met.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

Gary Minks, 709 Ocean Blvd., said he is definitely in favor of the project.

Kathy Watson, 12 Kings Highway, also expressed support.

Dean Grimaldi, 16 Kings Highway, said he supports the project. It will improve the neighborhood and meets the five criteria.

Back to the Board

Ms. De Vries said she felt this was a very strong application.

There was discussion about frontage. Mr. Provencal said the frontage here is 29 feet.

Moved by Mr. Provencal, seconded by Ms. Bialobrzeskid, to grsnt Petition 02-22.

Chairman O'Brien asked the Board if they felt the five criteria had been met. All members agreed that they had.

Vote: 5 yes, 0 no. Motion passed unanimously.

03-22...The petition of Riviera Condominiums LLC for property located at 431 and 435 Ocean Blvd. seeking relief from Article IV 4.4 footnote 27 for the installation of aesthetic fencing along the entire circumference of the roof (widows walk) 2 to 2.5 feet in height. This property is located on Map 266, Lots 27 / 47 and in the BS Zone.

Robert Pace, Applicant, said they have a problem in that Boise has said you cannot put roof trusses on the building because of wind. Mr. Pace said they still want to ask for relief but he cannot put up a fence. A structural engineer was called in to look at it and he said there is too much wind and you cannot put anything there.

Questions from the Board

Ms. Bialobrzeski asked if the structures are taller than what the original variance was for. Mr. Pace said no. Ms. Bialobrzeski asked if what is needed is forgiveness for the height of the mechanicals. Mr. Pace said yes. Ms. Bialobrzeski said she felt what is needed is an Equitable Waiver. Mr. Provencal disagreed.

Mr. McGuirk said this problem should have been caught long before it got to this point. The trusses should have been lower and the ridges higher.

Mr. Provencal said he believed there was something that could be done to disguise the mechanicals. He said he thought the engineer could come up with something.

Ms. De Vries said she would like more evidence there is truly a hardship. She said she would like to hear from the engineers about what could be done.

Mr. McGuirk suggested calling Goodwin. There is a way to do this.

Mr. Pace asked if they could continue.

Moved by Chairman O'Brien, seconded by Mr. Provencal, to continue Petition 03-22 next month at which time it will be first on the Agenda.

04-22...The petition of Gary & Gail MacGuire for property located at 132 Kings Highway (Units 1 & 2) seeking relief from Article(s) Section 1.3 Expansion of non-conforming

structure and Sections 2.3.7 C4 and 4.9 Reduction of 12' Dwelling Structure Setback from WCD to permit an addition to an existing structure which is located within the Wetland Conservation District (WCD) and 12' Dwelling Setback. The existing building and decks currently encroach both the WCD and the 12' Dwelling Setback in their current condition. The full buffer area is currently developed and maintained as lawn. The applicants are proposing to replace the existing decks with a building addition and add a 5' deck to provide access to the existing yard. The 1.58-acre property has one existing duplex dwelling with supporting infrastructure. This property is on Map 183, Lot 080/A and in the RB Zone.

Doug MacGuire representing Gary and Gail MacGuire came forward. He said they came before the Board last year for an encroachment of the side setback. We were granted the variance. The next step was obtaining a Wetlands Permit. That process was started. Somewhere along the line it was conveyed that two additional variances were needed. The main goal is to enclose the sunroom and add a slider for access to the lawn in the back yard. Drainage improvements were also planned. Mr. McGuire went through the five criteria and said he felt they had been met.

Questions from the Board

Ms. Bialobrzkeski said the ordinance says there is a rule on encroaching further into the buffer. Mr. MacGuire said he hoped this Board would look to this application the same way as other similar applications. Ms. Bialobrzkeski said the ordinance has already been changed and posted. Mr. MacGuire said the variance had been obtained and movement forward with the Wetlands Permit were both in play before the ordinance was changed.

Chairman O'Brien said his problem was going further into the buffer. Ms. De Vries said she agreed. Mr. MacGuire said that because they were converting to livable space and making drainage improvements.

Ms. De Vries said once you make that encroachment there is no difference in degrees of impact.. This is a very big encroachment into the buffer. She said when you are asking to go into the buffer zone the burden of proof is on you to prove this is a better option and would be healthier for the wetlands than what is there now. Ms. De Vries said evidence needs to be provided from experts that this is not bad for the wetlands.

Mr. MacGuire said he would be happy to provide a differential on this. He would also have a wetlands scientist weigh in. He said he feels this application is being unfairly burdened.

Chairman O'Brien asked if they would like to continue. Mr. MacGuire said yes.

Moved by Mr. Provencal, seconded by Ms. De Vries, to continue Petition 04-22 to next month at which time it will be second on the Agenda.

Vote: 4 yes, 0 no, 1 abstention (Bialobrzkeski). Motion passed.

05-22...The petition of AF Hospitality, LLC for property located at 46 Ashworth Avenue seeking relief from Article(s) 6.3.2. The Applicant requests a modification to the variance from Section 6.3.2 of the Zoning Ordinance, originally granted to it in December 2020 in Case 57-20 to permit a slightly revised 27 space parking configuration and the removal of the condition that the driveway serving the property be 22 feet wide. This property is on Map 287, Lot 4 and in the BS 1 Zone.

Attorney Justin Pasay, Henry Boyd, Millenium Engineering, Jeff Murphy came forward. Attorney Pasay said there were three plans in the package, the original, the As Built and the proposed. In 2020 relief was granted to put a pool in and to reduce parking. This caused a reduction to 41 rooms and 27 parking places. During the construction process, and in collaboration with all parties, it was determined that an egress from the second floor was required. This was done and inspections concluded. This took up two parking spaces. What is now proposed is in accordance with the fire codes. Also the width of the driveway strip did not go for the entire length of the driveway. Attorney Pasay went through the five criteria and said he felt they had been met.

Questions from the Board

Ms. Bialobrzkeski said this Board gave a variance for 27 parking spaces so they should be somewhere on this property. Why can't you put these spaces further back. Ms. Bialobrzkeski said she was concerned about safety.

Mr. Provencal said they are required to show parking spaces but are not required to use them.

Ms. De Vries said she actually found the legal argument that a variance is not needed to be compelling. However, whether it was 27 or 25 spaces it is still an improvement. I would be able to accept 25 spaces. Mr. Provencal said that there are new building codes, etc. Chairman O'Brien said he would like to hear from a fire safety professional.

Chairman O'Brien asked about the fire safety regulations for some condos being constructed. Jeff Murphy said each project stands alone. Everything has to work for this building. Ms. Bialobrzkeski said she has always heard 20 feet from the Fire Department.

Moved by Mr. Provencal, seconded by Ms. De Vries, to grant Petition 05-22.

Chairman O'Brien asked the Board if they felt the five criteria had been met. All members agreed that they had with the exception of Ms. Bialobrzkeski.

Vote: 4 yes 0 no, 1 abstention (Bialobrzkeski). Motion passed.

BUSINESS SESSION

Approval of Minutes

Moved by Chairman O'Brien, seconded by Ms. De Vries, to approve the Minutes of December 16, 2021 as amended.

Vote: 3 yes, 0 no, 2 abstentions (McGuirk, Provencal). Motion passed.

Adjournment

There being no further business, the meeting was adjourned at 10:21 p.m.

Respectfully submitted,

Joan Rice
Secretary